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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,529	08/11/2000	Robert C. Beck	1480	8331

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EXAMINER	
DESANTO, MATTHEW F	
ART UNIT	**PAPER NUMBER**
3763	21

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/637,529	BECK, ROBERT C.	
	Examiner	Art Unit	
	Matthew F DeSanto	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19 and 21-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19 and 21-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 19 is objected to because of the following informalities: The term "aperture". This is referred to in the specification as reference number 46, and therefore the examiner is interpreting the "slit" to be the "aperture" and requests that the applicant changes the term "aperture" to either a fluid port or the "slit".

Claim Rejections - 35 USC § 112

2. The 112 Rejection on claim 14 is withdrawn because of the amendment to the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23, 25, and 26 rejected under 35 U.S.C. 102(b) as being anticipated by Muto (UPSN 4468216).

Muto discloses a fluid supply catheter, a lumen, a distal aperture, and a sheath, wherein the ablation catheter is located within the sheath and adapted for motion with respect to the sheath (Figures 1, 2 and Entire reference).

5. Claims and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by E. C. Pilgrim (USPN 1902418).

Pilgrim discloses a fluid supply catheter, a lumen, a distal aperture, and a sheath, wherein the ablation catheter is located within the sheath and adapted for motion with respect to the sheath and wherein said aperture defining a first aperture defining a first aperture direction for the emerging flow that lies between approximate zero degrees and ninety degrees. (Figures 2, 3, 5, 6 and Entire reference)

6. Claims 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dierker (USPN 2148541).

Dierker discloses a fluid supply catheter, a lumen, a distal aperture, and a sheath, wherein the ablation catheter is located within the sheath and adapted for motion with respect to the sheath and wherein said aperture defining a first aperture defining a first aperture direction for the emerging flow that lies between approximate zero degrees and ninety degrees. (Figures 2, 5 and Entire reference)

7. Claims 19, and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Neracher (USPN: 5135482).

Neracher discloses an ablation catheter having a catheter having a body and catheter body have a distal tip where the distal tip has a first maximal diameter, a sheath having a internal lumen where the lumen has a diameter substantially equal to the first diameter of the ablation catheter, and where the ablation catheter is located within the sheath and adapted for motion with respect to the sheath, whereby the ablation catheter body can be moved independently of the sheath. Neracher teaches two types of internal diameter of the sheath with the ablation catheter (column 2, lines 13-53, Figures 2, 3 and 12).

He also teaches a catheter body having a proximal and distal end, where the catheter body defines an axis, and the distal end having an approximately circular cross section, with a high pressure lumen in the catheter body terminating near the distal end and the annular aperture defining a first aperture defining a first aperture direction for the emerging flow that lies between approximate zero degrees and one hundred and eighty degrees, where the annular aperture cooperating with the catheter body to direct an annular sheet of fluid emerging from the aperture along the catheter body such that the distal end is substantially encircled with fluid from the aperture (Figures 2,4, and 12); as well as where a control body surface located immediate adjacent the aperture, providing a barrier located proximate the aperture, for limiting fluid entrainment from the location of the control body, near the aperture by the jet emerging from the aperture, whereby the jet is deflected by a pressure difference across the barrier,(Figures 6 and 9) and wherein a tangent drawn to the control body surface at the location of the aperture is parallel to the aperture direction (Figure 4) and where the tangent drawn to the control body to the aperture is greater then zero degrees, but less then ninety degrees, (Figure 10 and entire reference).

Response to Arguments

1. Applicant's arguments filed March 3, 2003 have been fully considered but they are not persuasive.

2. The examiner finds the new language to be a little confusing. If the applicant were to clarify in such a way, that the sheath was not occluding blood flow in the vessel when the embolic material was being removed, it would be clearer to the examiner. The

main reasoning is because when the catheter is being maneuvered through the vessel the balloons would not be inflated and thus would not occlude the blood flow.

3. With regards to the argument the applicant is arguing language not claimed. The examiner looked for a special definition of a "control body" and could not find one in the specification. Therefore, the examiner must given that limitation the broadest interpretation of a "control body" and that is a body that controls fluid in this instance. The examiner would like to suggestion adding means plus function language because of the special elements that cause special relationship in this application.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Matthew DeSanto
Art Unit 3763
March 17, 2004

BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700